

## § 2.1253

(d) Matters not put into controversy by the parties may not be examined and decided by the presiding officer. If the presiding officer believes that a serious safety, environmental, or common defense and security matter exists that has not been placed in controversy, the presiding officer shall advise the Commission promptly of the basis for that view, and the Commission may take appropriate action.

(e) Pending review and final decision by the Commission, an initial decision resolving all issues before the presiding officer in favor of authorizing licensing action subject to this subpart is immediately effective upon issuance except—

(1) As provided in any order issued in accordance with § 2.1263 that stays the effectiveness of an initial decision; or

(2) As otherwise provided by the Commission in special circumstances.

(f) Following an initial decision resolving all issues in favor of the licensing action as specified in paragraph (e) of this section, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing of a petition for review or pendency of any review taken by the Commission pursuant to § 2.786, shall take the appropriate licensing action upon making the appropriate licensing findings promptly, except as may be provided pursuant to paragraph (e)(1) or (2) of this section.

[54 FR 8280, Feb. 28, 1989; 54 FR 53035, Dec. 26, 1989; 56 FR 29411, June 27, 1991]

## § 2.1253 Petitions for review of initial decisions.

Parties and § 2.1211(b) participants may petition for review of an initial decision under this subpart in accordance with the procedures set out in §§ 2.786 and 2.763 or the Commission may review the decision on its own motion. Commission review will be conducted in accordance with those procedures the Commission deems appropriate. The filing of a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review.

[56 FR 29411, June 27, 1991]

## 10 CFR Ch. I (1–1–02 Edition)

## § 2.1259 Final decision; petition for reconsideration.

(a) Commission action to render a final decision must be in accordance with § 2.770.

(b) The provisions of § 2.771 govern the filing of petitions for reconsideration.

## § 2.1261 Authority of the Secretary to rule on procedural matters.

The Secretary or the Assistant Secretary may rule on procedural matters relating to proceedings conducted by the Commission itself under this subpart to the same extent they can do so under § 2.772 for proceedings under subpart G.

## § 2.1263 Stays of NRC staff licensing actions or of decisions of a presiding officer or the Commission pending hearing or review.

Applications for a stay of any decision or action of the Commission, a presiding officer, or any action by the NRC staff in issuing a license in accordance with § 2.1205(m) are governed by § 2.788, except that any request for a stay of staff licensing action pending completion of an adjudication under this subpart must be filed at the time a request for a hearing or petition to intervene is filed or within 10 days of the staff's action, whichever is later. A request for a stay of a staff licensing action must be filed with the adjudicatory decisionmaker before which the licensing proceeding is pending.

[61 FR 39298, July 29, 1996]

## Subpart M—Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications.

SOURCE: 63 FR 66730, Dec. 3, 1998, unless otherwise noted.

## § 2.1300 Scope of subpart M.

This subpart governs requests for, and procedures for conducting, hearings on any application for the direct or indirect transfer of control of an NRC license which transfer requires prior approval of the NRC under the